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# BILL KRAMER

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STATE REPRESENTATIVE • 97<sup>TH</sup> ASSEMBLY DISTRICT

## **Testimony of Representative Bill Kramer on AB 242**

Assembly Criminal Justice Committee

Mr. Chairman, Members of the Committee:

Mr. Chairman, I would first like to thank Sen. Lassa for joining me today and for being the lead sponsor of this legislation in the State Senate. I am confident that by working on a bipartisan basis, this good, sound legislation will ultimately become law.

Secondly, I would like to thank the various groups that have registered in support of this legislation: The Association of State Prosecutors, Milwaukee Police Association, Wisconsin Coalition Against Domestic Violence, and the Wisconsin Sheriffs and Deputy Sheriffs Association.

Shortly after arriving in the Assembly, I was asked if I would take the lead on shepherding this legislation that had been previously introduced by former Representative Mark Pettis and Senator Julie Lassa. It ultimately passed the Assembly last session, but unfortunately, the Senate adjourned before it could be passed out of that house.

By reintroducing it early in our current session, we hope that we can move this bill and present it to the Governor for his signature.

While domestic abuse is abhorrent and each one of us is all too familiar of the nightmare stories attendant to such violence, certainly victims of harassment, child abuse victims, and at-risk adults deserve similar protections and our law enforcement need such tools to protect potential victims.

Restraining orders are an important mechanism to protect would-be victims. When a petitioner seeks an injunction, a court holds a hearing to determine whether to issue a temporary restraining order and then will hold a second hearing to ultimately issue an injunction. Currently, Wisconsin law provides for four types of restraining orders: domestic abuse, vulnerable or at-risk adult, child abuse and harassment. However, only a domestic abuse injunction is effective upon issuance.

In the other instances, offenders may avoid court appearances to prevent the service of the injunction. This bill will help to address problem situations where a law enforcement officer lacks the authority to arrest a person who violates the terms of an injunction if the temporary restraining order has expired and if the injunction notice has not been served.

In short, this bill protects victims from the moment they seek protection under the law.





## MEMORANDUM

May 23, 2007

TO: Assembly Members of the Committee on Criminal Justice

FROM: Josh Freker, Policy Director, Wisconsin Coalition Against Domestic Violence

RE: Testimony in Support of Assembly Bill 242

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The Wisconsin Coalition Against Domestic Violence (WCADV) is a statewide membership organization of battered women, formerly battered women, local domestic abuse programs in every county, and individuals committed to ending domestic violence.

Thank you for giving me the opportunity to testify today, and thank you to Rep. Kramer and Sen. Lassa for bringing this bill forward.

WCADV fully supports Assembly Bill 242 for two primary reasons:

- It would make a common sense reform to ensure that those who harass, stalk, or abuse others cannot in effect invalidate restraining orders simply by avoiding being served.
- It would ensure consistency for all four types of injunctions under Wisconsin law.

Restraining orders and injunctions are a critical tool for victims of violent crime. In order to be effective, this tool must be as relevant, useful and enforceable as possible so that it truly contributes to the safety and well-being of the individual who needs its protections.

Under Wisconsin law, injunctions result from a two-step process. First, the law requires that the respondent to the order be served with (1) a temporary restraining order (TRO), (2) an affidavit containing allegations of abuse or harassing conduct, and (3) a notice of injunction hearing, including time and location.

Many respondents who have been served with proper notice of the TRO and hearing fail to report for the hearing as a strategy for avoiding formal service of the final injunction. In effect, they have "constructive knowledge" of the existence of the order; however, law enforcement and prosecution are unable to enforce the order until it has been physically served on the respondent. Some respondents successfully avoid service for weeks, months, and sometimes the injunction expires before it has ever been served. This means, in many situations, restraining orders that are essential to protecting victims are rendered ineffective.

WCADV supports AB 242 because it will make a child abuse, vulnerable adult, or harassment injunction effective as soon as the court issues it, so long as the respondent to the order was served with the petition and notice of the time and place for the injunction hearing. This is a common sense reform.

There are four types of injunctions under Wisconsin law: domestic abuse, child abuse, harassment, and individuals at risk (formerly known as vulnerable adult) injunctions. In 2002 the Legislature reformed domestic abuse restraining orders (§813.12) to include language as proposed in AB 242. AB 242 will ensure that the other three types of restraining orders have the same protections already offered under domestic abuse injunctions. It will make enforcement aspects of all four injunctions consistent.

All four types of restraining orders can be essential tools for victims of domestic violence. For example, a domestic violence victim who is being stalked may need the protection of a harassment injunction—not just a domestic abuse injunction. In many cases, a batterer not only abuses his partner but also her children. A child abuse injunction can be a critical tool for helping these victims and their children achieve safety. Without the simple reform provided by AB 242, too many of these injunctions will remain functionally unenforceable and victims could remain in harm's way.

WCADV urges you to support AB 242. It will benefit victims of violent crime. It will give teeth to existing law so police can better enforce injunctions. If you have questions, please feel free to contact me at 608-255-0539.



## Wisconsin Coalition Against Sexual Assault, Inc.

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To: Assembly Committee on Criminal Justice  
From: Mike Murray, Policy Specialist, Wisconsin Coalition Against Sexual Assault, Inc.  
Re: **Wisconsin Coalition Against Sexual Assault Testimony in Favor of AB 242**

The Wisconsin Coalition Against Sexual Assault (WCASA) fully supports Assembly Bill 242 and thanks Representative Kramer and Senator Lassa for their leadership on this issue. ABA 242 prevents violent offenders from negating the effect of properly issued injunctions against them.

Currently, violent offenders must be physically served with injunctions meant to prevent child abuse or harassment or protect individuals at risk. This requirement is even operative when the offender has already been served with a temporary restraining order and has had notice that his or her failure to appear at the injunction hearing will result in the issuance of the injunction. In 2002, the legislature changed this requirement with respect to domestic violence restraining orders. Under the domestic violence injunction law, an injunction will take effect if the offender has had "constructive notice" of the injunction through the notice of the injunction hearing. Assembly Bill 242 recognizes that victims of child abuse, victims of harassment and vulnerable adults, deserve this same protection.

Victims of sexual violence often seek the protection of state through temporary restraining orders and injunctions against their perpetrators. Sex offenders often prey on the most vulnerable individuals in our society, like children, the elderly and people with disabilities. They also use tactics of intimidation, control and harassment. Victims who have come forward to face their abusers and protect themselves show tremendous courage and strength. They deserve fair and expeditious protection from the courts—not a web legal technicalities.

This bill will ensure that violent offenders can no longer use the legal formality of physical service to knowingly disregard a court order and continue to terrorize their victims. The bill will also afford victims greater confidence that they will have a remedy if a stalker or violent offender continues to terrorize them. Their peace of mind and ability to emotionally recover from abuse will not be dependant upon their offenders' submission to physical service.

On behalf of WCASA and its members across the state, I urge you to support this legislation. With this bill the legal system will be more effective, violent offenders will have less opportunity to terrorize vulnerable individuals and victims will be more secure.

